

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY APPLICATION NO.867 OF 2005
IN
COMPANY PETITION NO.550 OF 2003

Rama Shree Conductors Ltd. Applicants

versus

EMCO Limited Respondents

R.S.Tripathi for applicants in CA 867/2005.
P.N.Patil for applicants in CA 180/2006 and
respondents in CA 867.2005

CORAM : S.C.DHARMADHIKARI, J.
DATE : 10th March 2006

PC :

1. Shri Tripathi appearing for the applicant in support does not dispute that the applicant has filed a civil suit against respondent company and the said suit is pending. He, therefore, prays that the bank guarantee which is furnished by the respondent pursuant to the order of this Court, should not be encashed and in fact should be renewed till further orders of the Civil Court.

2. Shri Patil appearing for the respondents, in turn, relies upon Company Application No.180 of 2006 and the prayer made therein and submits that once the Company Petition is disposed of, a

direction to furnish the bank guarantee comes to an end and, therefore, it is the plain duty of the Registry to return the bank guarantee to the respondents.

3. Having heard Shri Tripathi and Patil at length and perused with their assistance the prayers in the company application and the statements made on affidavit in support thereof, in my view, interest of justice would be subserved if it is directed that the bank guarantee furnished by respondents shall be returned to the respondents within a period of three weeks from today. It is clarified that within this period it would be open for the applicant in Company Application No.867 of 2005 to obtain appropriate orders from the Civil Court and needless to state further that if the Civil Court passes appropriate orders on such an application, then the respondent company would abide by same, subject of course to their legal rights. It is also clarified that if no orders are passed within this period, the bank guarantee should be returned to the respondents. Company Application No.180 of 2006 and Company Application No.867 of 2005 stands disposed of.

((-3-))

(S.C.DHARMADHIKARI, J.)